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TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

MAR 12 2014

Uniform Issue List: 408.03-00

T:EP:RA:TJ

Legend

Taxpayer A =

IRA B =

Account C =

IRA D =

Financial Institution F =

Financial Institution G =

Financial Institution H =

Amount 1 =

Dear :

This is in response to your request dated June 10, 2013, as supplemented by correspondence dated November 27, 2013, January 17, 2014, and February 18, 2014, in which you request, through your authorized representative, a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A represents that in December of 2012, he received a distribution equal to Amount 1 from IRA B, an individual retirement account described in section 408(a) of the Code, which was maintained by Financial Institution F. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by 408(d)(3)(A) was due to financial institution error.

Taxpayer A wanted to diversify his investments in IRA B by dividing it into different IRAs with different financial institutions. On December 31, 2012, Taxpayer A went to the local office of Financial Institution F to request a rollover of Amount 1 from IRA B to Financial Institution G, where he maintained a regular non-IRA brokerage account, Account C. Taxpayer A understood from his conversation with a representative of Financial Institution F that Amount 1 would be rolled over into an IRA account with Financial Institution G. On December 31, 2012, Amount 1 was wired from IRA B to Account C.

In January of 2013, Taxpayer A had a conversation with a representative of Financial Institution G and requested that his required minimum distribution be made from an account he believed to be his IRA account. Taxpayer A even discussed with this representative of Financial Institution G the correct uniform lifetime factor to be used for determining the required minimum distribution. At this time, however, the representative from Financial Institution G failed to inform Taxpayer A that he was, in fact, requesting a required minimum distribution from a non-IRA account. Taxpayer A submitted a copy of the check he received from Financial Institution G, dated January 22, 2013, in an amount equal to his required minimum distribution amount.

In March of 2013, Taxpayer A was preparing his income tax return and noticed that the Form 1099-R characterized the distribution of Amount 1 as a normal distribution rather than as a rollover. He contacted Financial Institution G and discovered that Amount 1 had been placed in a non-IRA account. Pursuant to Taxpayer A's attorney's suggestion, Amount 1 was transferred to IRA D, maintained by Financial Institution H, in March of 2013.

Based on the above facts and representations, Taxpayer A requests that the Service waive the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA B.

Section 408(a) of the Code defines an IRA to mean a trust created or organized in the United States, and requires that the trustee be a bank or an approved non-bank trustee.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in

gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

(i) the entire amount received (including money or any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary of the Treasury may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359, provides that the Service will issue a ruling waiving the 60-day rollover requirement in cases where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster or other events beyond the reasonable control of the taxpayer. In determining whether to grant a waiver of the 60-day rollover requirement

pursuant to section 408(d)(3)(I) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and the documentation submitted support Taxpayer A's assertion that his failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3)(A) of the Code was due to financial institution error.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA B. Provided all other requirements of section 408(d)(3), except the 60-day requirement, were met with respect to the contribution of Amount 1 to IRA D in March of 2013, such contribution will be considered a rollover contribution within the meaning of section 408(d)(3).

This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

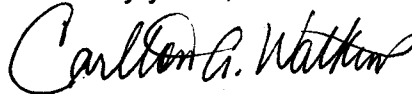
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative.

If you wish to inquire about this ruling, please contact
at . Please address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:
Notice of Intention to Disclose
Deleted copy of this letter

cc: